

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARK DAVID SMITH,

Defendant.

CR 15–23–BU–DLC

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on August 13, 2015. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Mark David Smith’s guilty plea after Smith appeared before him pursuant to Federal Rule of Criminal

Procedure 11, and entered a plea of guilty to one count of possession of a firearm not registered in the National Firearms Registration and Transfer Record in violation of 26 U.S.C. § 5861(d), as set forth in the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 20), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Mark David Smith's motion to change plea (Doc. 13) is GRANTED and Mark David Smith is adjudged guilty of the offense charged in the Indictment.

DATED this 31st day of August, 2015.



Dana L. Christensen, Chief District Judge
United States District Court